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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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MAILED

SEP 19 2002

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

In re Application of :
William R. Van Etten et al. :
Serial No. 09/348,693 : **DECISION ON PETITION**
Filed July 7, 1999 : **TO WITHDRAW THE FINALITY**
For: INFORMATION TRANSLATION : **OF AN OFFICER ACTION**
COMMUNICATION PROTOCOL : **UNDER 37 CFR 1.181**

This is a decision on the Petition under 37 CFR 1.181 filed August 29, 2002 to withdraw the finality of an Office action.

The petition is GRANTED to the extent indicated below.

A review of the file history reveals that on July 29, 2002 the Office issued a Final rejection. In the Final rejection, the examiner rejected claims 1-3, 8-10, 11-16 and 17-26 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,740,425 to Povilus (hereinafter '425) in view of the U.S. patent 5,570,291 to Dudle et al (hereinafter '291).

The file history shows that a first Office action was mailed out on February 14, 2002. In that action, the examiner rejected claim 9 under 35 U.S.C. 112; rejected claims 1-3, 8-10 and 17-26 under 35 U.S.C. 102(b) as being clearly anticipated by the '425 reference; and rejected claims 4-6 under 35 U.S.C. 103(a) as being unpatentable over the '425 in view of the '291 reference, and further in view of U.S. patent 6,338,050 to Conklin et al. Applicant has not amended the claims in response to the art rejections of the first Office action rejection mailed February 12, 2002.

Thus, the final rejection of claims 1-3, 8-10, 11-16 and 17-26 under 35 U.S.C. 103(a) as being unpatentable over the '425 reference in view of the '291 reference constitutes a new ground of rejection that has not been necessitated by amendment. Accordingly, it is agreed that the finality of the July 23, 2001 Office action was premature.

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The application is being forwarded to the Supervisory Legal Instrument Examiner to withdraw the finality of the July 29, 2002 Office action (but not the Office action itself). Please note that the period for response continues to run **THREE MONTHS** from the date of the July 29, 2002 Office action.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Wynn Coggins at (703) 308-1344.



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WC/SM: 09/16/02

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